

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

ORDER NO. 98-073

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY FOR:

**WEST MARIN SANITARY LANDFILL  
HAZEL MARTINELLI, LEROY MARTINELLI,  
PATRICIA MARTINELLI, AND STANLEY MARTINELLI  
POINT REYES STATION  
MARIN COUNTY**

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board), finds that:

1. West Marin Sanitary Landfill Inc. operates, and Mr. Leroy Martinelli, Mrs. Hazel Martinelli, Ms. Patricia Martinelli, and Mr. Stanley Martinelli are the landowners of West Marin Sanitary Landfill (WMSL), a Class III municipal refuse disposal site located in Point Reyes Station, Marin County. West Marin Sanitary Landfill Inc., and Leroy, Hazel, Patricia and Stanley Martinelli are hereinafter the dischargers. The landfill operates under Waste Discharge Requirements Order No. 96-129 issued by the Board in September 1996.
2. WMSL is located in the western portion of Marin County 1.5 miles north of the town of Point Reyes Station and 1/4 mile east of Highway 1. WMSL is an unlined landfill located in a side canyon of Tomasini Canyon. Waste has been placed to a height of up to 200 feet and within 400 feet laterally of Tomasini Creek. The landfill is permitted to occupy a 25-acre area of which about 14.7 acres have been filled. Downstream landuse is residential and agricultural.
3. On June 11, 1998, the Executive Officer issued Compliant No. 98-032 for Administrative Civil Liability to the dischargers alleging that WMSL violated Water Code Section 13267 and Waste Discharge Requirements by failing to submit monitoring reports and technical reports as follows:

**Violation No. 1**

**Late Submittal of Closure Plan (95 days)**

The Closure Plan was required to be submitted by June 25, 1997. The Plan was eventually submitted on October 1, 1997, 95 days overdue. Our April 9, 1997, Order required submittal of a Closure Plan by June 25, 1997, pursuant to Water Code 13267.

**Violation No. 2**

**Nonsubmittal of Revised Closure Plan**

Report 98 days overdue as of May 15, 1998.

Our December 17, 1997, Order required submittal of a revised Closure Plan to our office by February 6, 1998, pursuant to Water Code Section 13267. No such report has been submitted as of the date of this memorandum.

**Violation No. 3**

**Nonsubmittal of plan for leachate hauling and offsite disposal**

The report was due March 26, 1998 and is 48 days overdue as of May 15, 1998.

Our March 11, 1998, Order required submittal of a leachate hauling and disposal plan by March 28, 1998 pursuant to Water Code Section 13267. This is a serious violation because it poses a threat to water quality due to the potential for the leachate pond to overflow.

**Violation No. 4**

**First Quarter 1998 Monitoring Program Not Conducted**

The landfill failed to conduct the first quarter 1998 monitoring program required pursuant to Waste Discharge Requirements Order No.96-129.

4. The Board, after hearing all testimony, determined that the dischargers are liable civilly and, in accordance with Water Code Section 13268, considered the following factors in determining the amount of liability:
  - a. Extent and Gravity of the Violations: While the violations have not resulted in significant water quality impacts, the combined delays of over 193 days for the Closure Plan submittal will cause a corresponding or longer delay in the closure of the landfill. These late submittals will cause a one-year delay in construction due to missing the 1998 summer construction season window. The delay in capping of the landfill and expanding the leachate extraction system allows leachate to continue to migrate out of the landfill and into Tomasini Creek. While the leachate exhibits low toxicity and low exceedances of water quality standards, no exceedance is acceptable. Furthermore, low levels of ammonia were detected in Tomasini Creek for the first time during the summer of 1997. Ammonia, which is highly toxic to fish, was detected in Tomasini Creek, immediately downstream from the landfill. While the total ammonia levels at concentrations of less than 1 mg/l are below aquatic standards, the initial detection of ammonia in surface water provides further justification for constructing the final cap and expanding the leachate extraction system in a timely manner.

- b.     Susceptibility to Cleanup or Abatement: The violations are for failure to submit reports, and are not susceptible to cleanup or abatement. The discharges of leachate, however, are susceptible to abatement.
- c.     Degree of Toxicity of the Discharge: The violations are for failure to submit reports and do not directly involve a discharge. Documented leachate seepage into the creek appears to have relatively low toxicity.
- d.     Economic Savings Resulting From the Violations: The discharger realized a cost savings of about \$7,000 due to not conducting the Monitoring Program. There was also a modest saving due to the deferment of expenses by submitting late reports.
- f.     Ability to Pay and Effect on Ability to Stay in Business: The landfill is reportedly operating at a loss. Assessment of the maximum fine of \$1,000 per day for late report submittal fine could seriously harm the ability of WMSL to continue in business. However, the recommended fine of \$50,500 is low enough that the dischargers would probably be able to pay, yet high enough to provide an incentive to WMSL to comply with Waste Discharge Requirements and Water Code Section 13267 requests in the future.
- g.     Prior History of Violations: Over the last 17 years, the Regional Board has issued one ACL and three Cleanup and Abatement Orders (CAO) to WMSL. The ACL and CAOs are summarized below:

Of most significance to this ACL is Order No. 96-096, which issued Administrative Civil Liability for submittal of late technical reports. The total fine amount was \$58,300, of which \$53,000 was suspended provided that the late reports were submitted by April 1997. The late reports were subsequently submitted on time.
- h.     Degree of Culpability: The dischargers had full knowledge that the reports were overdue based on the requirements of Board Order 96-129, the above referenced Water Code Section 13267 request letters, a March 11, 1998, Notice of Violation letter from the Executive Officer and conversations with Board staff.
- i.     Voluntary Cleanup Efforts: The violation is not amenable to cleanup.
- j.     Other Matters as Justice May Require: This Board is not aware of other matters which need to be considered.

5. The maximum civil liability which can be imposed by the Regional Board under Section 13268 of the California Water Code is \$1,000 per day for each day of violation. Complaint No. 98-032 alleges that there has been a total 241 days of violations for the period from October 1, 1997, through May 15, 1998. The Complaint (Appendix B) is based on 241 days of violation, thus yielding a maximum fine of \$241,000. However, as of the date of the Tentative Order, one report was still overdue. Therefore, the maximum fine as of the date of the Tentative Order is \$286,000 based on 286 days of violation.
6. This action is an Order to enforce the laws and regulations administered by the Board. This action is categorically exempt from the provisions of CEQA pursuant to Section 15321 of the Resources Agency Guidelines.
7. The Board has notified the dischargers and all interested agencies and persons that it would hold a public hearing on this matter and has provided them with an opportunity to submit written comments.
8. The Board, at a public hearing, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, PURSUANT TO CALIFORNIA WATER CODE SECTION 13268, that the dischargers are civilly liable for this violation and shall pay administrative civil liability in the amount of \$56,200. The liability shall be paid to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Order.

I, Loretta K. Barsamian, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on July 15, 1998.

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Loretta K. Barsamian  
Executive Officer